

**NERA**  
ECONOMIC CONSULTING

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## **THOMAS R. MCCARTHY** **SENIOR VICE PRESIDENT**

Dr. McCarthy received a B.A. in Economics from Assumption College in Worcester, Massachusetts and Master's and Ph.D. degrees in Economics from the University of Maryland under a National Defense Education Act Fellowship. After teaching microeconomic theory and urban economics at the University of Maryland, Dr. McCarthy joined the faculty of the School of Economics and Management of Oakland University in Michigan. There he taught graduate and undergraduate microeconomics as well as health economics, his area of special interest.

Dr. McCarthy joined NERA in 1983 and now directs NERA's health care practice, a practice that specializes in the economic analysis of regulatory, public policy, and litigation matters in health care markets. His own projects include analyzing the competitive effects of many health care industry mergers, including evaluating the horizontal and vertical issues created by mergers of hospitals, hospital systems, health insurers, physician groups, physician practice management companies, imaging and other medical device manufacturers, and home health care companies. In a variety of health care antitrust liability and damages cases, he has analyzed exclusive contracts, physician staff privileges issues, exclusions from managed care panels, GPO contracting, alleged foreclosures due to shifting referral patterns and exclusive contracting (e.g., the *PeaceHealth* case), bundling, joint ventures, hospital and physician monopolization cases, monopsony, and state action immunity issues involving certificates of public advantage covering hospital mergers in Montana and South Carolina. He has also analyzed class certification and liability issues in health care class action cases, including serving as a liability expert in the Miami MDL brought by physicians against ten national HMOs. In the pharmaceuticals area, he recently served as the liability witness on behalf of Lundbeck in the *FTC v. Lundbeck (Ovation)* case. As part of his policy work, Dr. McCarthy has analyzed the competitive effects of a "Blues" conversion to for-profit status and Medicare prescription drug proposals. He is also co-editor and a principal author of a year-long, two-volume study of health care reform in 12 industrialized countries, published by Kluwer.

Another area of specialization for Dr. McCarthy has been the economics of intellectual property protection, including the estimation of contract, trade dress, trade secret and patent damages, often for medical equipment and devices but also including computer hardware, CD-Rs, supermarket equipment, satellites, and agricultural products. He has also worked on

antitrust damages or class certification matters involving the pharmaceutical, medical devices, soft drink, agriculture, candy, ice cream, auto parts, oil, video distribution, and newspaper industries. Other major projects include the competitive analysis of revenue sharing agreements used by supermarkets during a recent labor strike, the development of affirmative action plans, and the estimation of damages resulting from a major oil spill.

Prior to joining NERA, Dr. McCarthy was a staff economist with the Federal Trade Commission conducting studies of regulation and competition in health care markets. One such study examined the competitive effects of certificate-of-need regulation in the hospital market.

Dr. McCarthy has written several papers analyzing competition and antitrust damages in health care. These include an article in the *Journal of Health Economics* on competition in the physician services market and articles in ABA monographs on hospital merger efficiencies, monopoly and monopsony issues between payers and providers, antitrust damages, and defining geographic markets in hospital mergers. Other research activities include presentations at professional meetings and his serving as an invited panelist or moderator for various ABA and health care policy conferences. He was also invited by the Federal Trade Commission and the Antitrust Division of the Department of Justice to testify at three different sessions about monopoly and monopsony issues in health care at their joint hearings on Health Care and Competition Law and Policy. He has testified as an economic expert in federal and state court, as well as before arbitration panels, state insurance agencies, and the International Trade Commission.

Dr. McCarthy is a member of the American Economic Association and an associate member of both the American Health Lawyers Association and the American Bar Association's Section of Antitrust Law, including membership with the Section's Health Care Committee. He also served on the American Bar Association's Task Force on Hospital Mergers.

## **Education**

**University of Maryland**  
Ph.D., Economics, 1980  
M.A., Economics, 1973

**Assumption College**  
B.A., Economics, 1971

**Canisius College**  
1967-1969

**Professional Experience**

1996-	<b>NERA Economic Consulting</b> Senior Vice President
1989-1996	Vice President
1986-1989	Senior Consultant and Project Director
1983-1986	Senior Analyst
1982-1983	<b>Federal Trade Commission</b> Staff Economist, Division of Regulatory Analysis, Bureau of Economics
1978-1983	<b>Oakland University</b> Assistant Professor, School of Economics and Management
1980-1982	<b>Blue Cross/Blue Shield of Michigan</b> Consultant
1978-1980	<b>Department of Health, Education and Welfare</b> Sole-source Contractor, Health Care Financing Administration
1975-1978	<b>General Electric Tempo</b> Consultant, Center for Advanced Studies
1975-1978	<b>University of Maryland</b> Instructor, Department of Economics
1975	Teaching Assistant, Department of Economics
1971-1973	National Defense Education Act Teaching Fellow

**Honors and Professional Activities**

Wall Street Journal Award for Outstanding Achievement in Economics,  
Assumption College, 1971

Graduate Assistantship, University of Maryland, 1974-1975

National Defense Education Act Fellowship, University of Maryland, 1971-  
1974

Outstanding Faculty Award, Oakland University Chapter of the Golden Key  
National Honor Society, 1981

Member, American Economic Association

Member, American Health Lawyers Association

Associate Member, American Bar Association, including membership in Section  
of Antitrust Law and Health Care Committee

Member, ABA Task Force on Hospital Mergers

## **Publications**

“Revenue Sharing Agreements: Do They Restrict Competition?” (with Elizabeth Newlon and Kristin Terris), *ABA Antitrust Law, Economics Committee Newsletter*, Vol. 10, No. 1 (Summer 2010).

“Contracting Practices by Hospitals,” Chapter 11, *Economics of Antitrust: New Issues, Questions, and Insights*, NERA Economic Consulting, 2004.

“Geographic Market Issues in Hospital Mergers,” Chapter 3 (with Scott Thomas) in Douglas C. Ross and Mark J. Horoschak, *Health Care Mergers and Acquisitions Handbook*, Chicago: American Bar Association, 2003.

“Antitrust Issues Between Payers and Provider,” (with Scott Thomas), prepared for the ABA-AHLA Health Care Antitrust Meetings, Washington DC, May 17-18, 2001. (Reprinted in two parts in *Antitrust Health Care Chronicle*, Chicago: American Bar Association, Spring 2002 and Summer 2002.)

“Efficiencies Analysis in Hospital Mergers” (with Scott Thomas and Lawrence Wu), *Antitrust Health Care Chronicle*, Volume 13, No. 1 (Winter 1999), pp. 2-11. (Revised version of article found in Howard Feller, *Antitrust and Healthcare Insights into Analysis and Enforcement*, Chicago: American Bar Association, Spring 1999.)

“Analyzing Damages in Health Care Antitrust Cases” (with Scott Thomas), *Antitrust Developments in Evolving Health Care Markets*, American Bar Association, 1996, pp. 67-96.

“Health Care Reforms – Are They Answering the Right Questions?” *Adapting a Global Industry to the New Health Care Environment*, Proceedings of the Financial Times World Pharmaceuticals Conference, March 23 and 24, 1994.

*Financing Health Care*, co-editor (with Ullrich Hoffmeyer), Kluwer Academic Press, 1994.  
Co-author, Chapter 2; "The Prototype" (with Ullrich Hoffmeyer). Co-author, Chapter 14; "The Health Care System of the United States" (with Julie Minnis).

"Health Care Funding and Its Impact on the Balance of Supply, Demand and the Meeting of Needs," *A New Socio-Economic Order in Twenty-First Century Europe*, Conference Proceedings of the General Assembly of the European Federation of Pharmaceutical Industries' Associations, 1993, pp. 47-54.

"U.S. Health Care Reform: NERA Offers a Number of Recommendations" (with Julie Minnis), *Viewpoint*, Vol. XXII, No. 1 (Winter 1993), pp. 15-21.

"The Effect of City Size on Journey to Work Behavior: Some Empirical Evidence" (with Oded Izraeli), *Perspectives in Urban Geography*, Volume V (Concept Publishing Company, New Delhi, India, 1987).

"The Competitive Nature of the Primary Care Physician Services Market," *Journal of Health Economics*, Vol. 4, No. 2 (June 1985).

"Variations in Travel Distance, Travel Times and Modal Choice Among SMSAs" (with Oded Izraeli), *Journal of Transport Economics and Policy*, May 1985.

"Beyond Goldfarb: Applying Traditional Antitrust Analysis to Changing Health Markets" (with Geraldine Alpert), *The Antitrust Bulletin*, Vol. 24, No. 2 (Summer 1984), pp. 165-204.

"Commentary," in *A New Approach to the Economics of Health Care*, Mancur Olson, ed., American Enterprise Institute, Washington, DC (December 1981). A review of four papers on Hospital Regulation presented at AEI conference on "Health Care-Professional Ethics, Government Regulation, or Markets," September 25-26, 1980.

## **Deposition Testimony**

*OMNI Healthcare, Inc., et al. vs. Health First, Inc., Holmes Regional Medical Center, Inc., Health First Physicians, Inc., Health First Health Plans, Inc., Health First Insurance, Inc., Michael D. Means, and Jerry Senne*, December 17, 2015.

*Sutter Health, et al. v. California Physicians' Service d/b/a Blue Shield of California, et al.*, September 16, 2015.

*Schuylkill Health System, Titusville Area Hospital, and Warren General Hospital v. Cardinal Health 200, LLC, and Owens & Minor Distribution, Inc.*, September 3, 2015.

*Suture Express, Inc. v. Cardinal Health 200 LLC, and Owens & Minor Distribution, Inc.*, May 12, 2015.

*Kamakahi, et al. v. American Society for Reproductive Medicine, et al.*, August 20, 2014.

*United States of America ex rel. et al. v. Kan-Di-Ki, LLC f/k/a Kan-Di-Ki, Inc. d/b/a Diagnostic Laboratories and Radiology*, April 23, 2013.

*In Re: Health Care Service Corporation's Proposed Alliance with Blue Cross Blue Shield of Montana*, February 1, 2013.

*Wuesthoff Health System, Inc. v. Health First, Inc., et al. and Richard A. Hynes, M.D., et al. v. Health First, Inc.*, November 14, 2012.

*Allergan, Inc. v. Merz Pharmaceuticals, LLC, MERZ GmbH & Co. KGaA, MERZ Aesthetics, Inc., et al.*, January 26, 2012.

*Alan Moelleken, M.D., et al. v. Cottage Health System, et al.*, December 22, 2011.

*Saint Alphonsus Diversified Care, Inc. v. MRI Associates, LLP; MRI Associates, LLP, MRI Limited Partnership, and MRI Mobile Limited, Counter-Claimants v. Saint Alphonsus Diversified Care, Inc., Counter-Defendant*, July 20, 2011.

*The Foundation for Seacoast Health v. Hospital Corporation of America, et al.*, April 6, 2011.

*In Re: Aetna UCR Litigation*, December 21, 2010.

*Diane Hiltman, Mona Rupe, on behalf of themselves and all others similarly situated, and on behalf of the general public v. Farmers Insurance Exchange, An Inter-Insurance Exchange, et al.*, October 30, 2009.

*Federal Trade Commission v. Lundbeck, Inc., State of Minnesota v. Lundbeck, Inc.*, September 10, 2009.

*Kelli Miller, individually and on behalf of all others similarly situated vs. Farmers Insurance Company, Inc., et al.*, September 2, 2009.

*George S. Cohlma, Jr., MD and Cardiovascular Surgical Specialists, Corp. v. Ardent Health Services, LLC, et al.*, April 2, 2009.

*Carolinas HealthCare System, et al. v. South Carolina Department of Health and Environmental Control, et al.*, February 24, 2009.

*Paul Schwam v. Farmers Insurance Company of Arizona, et al.*, February 19, 2008.

*Carolina Care Plan, Inc. v. United HealthCare Services, Inc. et al.*, January 29, 2008.

*State of California v. Safeway, et al.*, January 18, 2008.

*State of California v. Safeway, et al.*, August 7, 2006.

*Kaswan v. Allergan*, May 4, 2006.

*Edward Collins, M.D., et al., v. Anthem Health Plans, Inc.*, February 1, 2006 and November 14, 2003.

*Saint Agnes Medical Center, et al. v. PacifiCare of California, et al.*, March 8, 2005 and October 28, 2005.

*In Re: Managed Care Litigation, Provider Track Case relating to Shane I, MDL 1334*, February 2, 2005.

*U.S. Philips Corporation v. Princo Corporation and Princo America Corporation and Gigastorage Corporation and Gigastorage USA v. U.S. Philips Corporation and Koninklijke Philips Electronics, NV*, October 12, 2004.

*In the Matter of the Proposed Conversion of Premera Blue Cross to a For-Profit Corporation*, Washington State Insurance Commission, December 3-4, 2003.

*Rocky Mountain Medical Center, Inc. v. Northern Utah Healthcare Corporation, d/b/a St. Mark's Hospital, et al.*, October 16, 2003.

*Retractable Technologies, Inc. v. Becton Dickinson & Company, et al.*, August 25, 2003.

*In the Matter of Certain Recordable Compact Discs and Rewritable Compact Discs* (United States International Trade Commission Investigation), May 23, 2003.

*McKenzie-Willamette Hospital v. PeaceHealth*, April 17, 2003.

*Del Monte Fresh Produce Company and Del Monte Fresh Produce N.A., Inc. v. Dole Food Company, Inc. and Dole Fresh Fruit Company*, January 21, 2002.

*Yvonne Green, on her behalf and on behalf of all others similarly situated, v. Aetna U.S. Healthcare, Inc., et al.*, October 26, 2001.

*In Re: Aetna, Inc. Securities Litigation*, June 21, 2000 and July 19, 2000.

*Boston Scientific Corporation v. Mentor Medical, Inc.*, August 21, 1998.

*The County of Tuolumne and Eric Runte v. Sonora Community Hospital, et al.*, October 2-3, 1997.

*St. Mary Medical Group, Inc. v. M & C ProActive Management, Ltd., et al.*, April 18, 1997.

*COBE Laboratories, Inc. v. AVECOR Cardiovascular, Inc.*, June 5, 1996.

*Allergan Medical Optics and Microtech, Inc. v. Staar Surgical Co., Inc.*, May 28, 1996.

*American Council of Certified Podiatric Physicians and Surgeons v. American Board of Podiatric Surgery and American Podiatric Medical Association*, March 14, 1996.

*Retina Associates, P.A. v. Southern Baptist Hospital of Florida, Inc.*, January 18-19, 1996.

*Santa Cruz Medical Clinic and Derjjan Associates, Inc. v. Dominican Santa Cruz Hospital*, September 5-6, 1995, October 3-4, 1995 and February 2, 1996.

*Trylon Corporation v. Metwest, Inc. and Unilab Corporation*, April 7, 1995.

*Wang Laboratories, Inc. v. Mitsubishi Electronics America, Inc., et al.*, March 8, 1994 and June 8, 1994.

*American Health Advisors and William Phillips v. The University of Texas System, et al.*, November 9, 1993.

*John A. Bakos, M.D. v. Roseville Community Hospital, et al. and John A. Bakos, M.D. v. Donald Franks, M.D., et al.*, October 8, 1993.

*Diasonics, Inc. v. Acuson Corporation*, December 8-9, 1992, March 15 and March 24, 1993.

*David B. Kaye, M.D., et al. v. California Eye Institute, et al.*, December 28-29, 1992.

*Gerhard Flegel, D.O. and Richard Still, D.O. v. Christian Hospital Northeast-Northwest, et al.*, August 28, 1992.

*Lawrence Leyba, D.O. v. Hartmut Renger, M.D., Anesthesia Specialists of Albuquerque and St. Joseph's Health Care Corporation*, August 22, 1991.

*Dan A. Morgenstern, M.D. v. Charles S. Wilson, M.D., et al.*, July 18-19, 1991.

*Colorado Orthopedic Dance and Athletic Rehabilitation, P.C. and Linda Perkin v. Preferred Independent Physical Therapy Organization, Inc.*, October 4, 1990.

*Jeanne Call, et al. v. Prudential Insurance Company of America, et al.*, September 5, 1990.

*Weldotron Corporation v. Hobart Corporation and Waldyssa, S.A.*, March 6-9, 1990, April 30, 1990 and May 1-4, 1990.



*AB Food Products, Inc. v. Fabrica de Chocolates La Azteca, The Quaker Oats Company and Gabriel Tello*, January 3, 1990.

*Thomas Andrew Cherewick and Therapeutic Radiology, P.S.C. v. Northern Rockies Regional Cancer Treatment Center, et al.*, February 9, 1989.

*Dreyer's Grand Ice Cream, Inc. v. Popsicle Industries, Inc., Sara Lee Corporation, and DOES 1-100*, December 9 and December 12, 1988.

*Michigan State Podiatry Association, et al. v. Blue Cross and Blue Shield of Michigan and Eugene Harper, D.P.M., et al. v. Blue Cross and Blue Shield of Michigan*, July 20 and July 21, 1987.

*Sun Drop Bottling Company, Inc., et al. v. Coca-Cola Bottling Co. Consolidated and Pepsi-Cola Bottling Company of Charlotte, Inc.*, January 30 and January 31, 1986.

*Wordsman v. Xerox Corporation*, October 9, 1985.

## **Trial Testimony**

*New Mexico Oncology and Hematology Consultants, Ltd. v. Presbyterian Healthcare Services, Presbyterian Network, Inc., Presbyterian Insurance Company, Inc., and Presbyterian Health Plans Inc.*, (U.S. District Court, District of New Mexico), Motion to Compel Hearing, November 5, 2015.

*Alan Moelleken, M.D., et al. v. Cottage Health System, et al.*, (Superior Court for the State of California, County of Santa Barbara, Anacapa Division), March 23, 2012.

*Allergan, Inc. v. Merz Pharmaceuticals, LLC, MERZ GmbH & Co. KGaA, MERZ Aesthetics, Inc., et al.*, (U.S. District Court, Central District of California, Southern Division), March 2, 2012.

*Saint Alphonsus Diversified Care, Inc. v. MRI Associates, LLP; MRI Associates, LLP, MRI Limited Partnership, and MRI Mobile Limited, Counter-Claimants v. Saint Alphonsus Diversified Care, Inc., Counter-Defendant*, (In the District Court of the Fourth Judicial District of the State of Idaho, In and For the County of Ada), October 25, 2011.

*The Foundation for Seacoast Health v. Hospital Corporation of America, et al.*, (Superior Court, Rockingham County, State of New Hampshire), May 19, 2011.

*Federal Trade Commission v. Lundbeck, Inc., State of Minnesota v. Lundbeck, Inc.*, (Federal Court, 8<sup>th</sup> Circuit, District of Minnesota), December 15, 2009.

*Komeshak v. Illinois Farmers Insurance Company, et al.*, (Circuit Court, Twentieth Judicial District, St. Clair County, Illinois), Class Certification Hearing, September 30, 2009.

*R.J. McCauley and Roxanne Rogers, et al. v. Farmers Insurance Company, et al.*, (District Court of Canadian County, State of Oklahoma), Class Certification Hearing, April 22, 2009.

*McKenzie-Willamette Hospital v. PeaceHealth* (U.S. District Court for the District of Oregon, Portland Division), October 22-23, 2003.

*David M. Odom v. Fairbanks Memorial Hospital, et al.*, (Superior Court of the State of Alaska, Fourth Judicial District of Fairbanks), March 14, 2002.

*St. Mary Medical Group, Inc. v. M & C ProActive Management, Ltd., et al.*, June 9, 1997.

*Wang Laboratories, Inc. v. Mitsubishi Electronics America, Inc., et al.*, (U.S. District Court, Central District of California), June 28, 1994.

*American Health Advisors and William Phillips v. The University of Texas System, et al.*, (District Court of Travis County, Texas, 261st Judicial District), November 23, 1993.

*Gil N. Mileikowsky, M.D. v. Sheldon L. Schein, M.D., et al.*, (Superior Court of the State of California, County of Los Angeles), October 25, 1993.

*Dan A. Morgenstern, M.D. v. Charles S. Wilson, M.D., et al.*, (U.S. District Court, District of Nebraska), December 9-10, 1991 and September 8-10, 1992.

*Sun Drop Bottling Company, Inc., et al. v. Coca-Cola Bottling Co. Consolidated and Pepsi Cola Bottling Company of Charlotte, Inc.*, (U.S. District Court, Western District of North Carolina), May 29-30, 1986.

## **Other Testimony**

### **Arbitration Testimony**

*Sutter Health, et al. v. California Physicians' Service d/b/a Blue Shield of California, et al.*, (JAMS Arbitration, Reference Number 1130006105), October 23, 2015.

*Saint Agnes Medical Center, et al. v. PacifiCare of California, et al.*, November 16, 2005 and November 17, 2005.

*Trylon Corporation v. Metwest, Inc. and Unilab Corporation* (binding arbitration before Judge Weil); April 19, April 21, May 29, 1995 and July 10, 1995.

**Testimony Provided to the International Trade Commission**

*In the Matter of Certain Recordable Compact Discs and Rewritable Compact Discs* (USITC Inv. No. 337-TA-474), Washington, DC, June 19, 2003.

**Testimony Provided to State Agencies**

*In the Matter of Application for Indirect Acquisition of Controlling Interest of Domestic Insurers, CarePlus Health Plans, Inc. (App I/D: 935949), CompBenefits Company (App I/D: 935951), Humana Health Insurance Company of Florida, Inc. (App I/D: 935948), Humana Medical Plan, Inc. (App I/D: 935950), by Aetna Inc., Tallahassee, FL, December 7, 2015.*

Montana Commissioner of Securities and Insurance and Montana Attorney General's Office Hearing re: Health Care Service Corporation's Application to acquire Blue Cross and Blue Shield of Montana, Inc., Helena, MT, March 13, 2013.

Delaware State Department of Insurance, Testimony and Affidavit in support of Aetna's acquisition of Coventry in Delaware, Dover, Delaware, January 28, 2013.

Florida Office of Insurance Regulation, (written) Testimony by Affidavit and Supplemental Affidavit in support of Aetna's acquisition of Coventry in Florida, Tallahassee, Florida, November 1, 2012.

Colorado Division of Insurance, Testimony in support of CIGNA's acquisition of Great West Healthcare, Denver, CO, March 11, 2008.

Alaska Division of Insurance, Testimony in support of Premera Blue Cross' proposed conversion to for-profit status, June 9, 2004.

Washington State Office of the Insurance Commissioner, Testimony in support of Premera Blue Cross' proposed conversion to for-profit status, May 5, 2004.

New Mexico Division of Insurance, Testimony in support of Cimarron Health Plan's acquisition of QualMed Plans for Health, Santa Fe, New Mexico, August 30, 1999.

Florida State Department of Insurance, (written) Testimony by Affidavit in support of Aetna, Inc.'s acquisition of Prudential Health Care's Florida Division, Tallahassee, Florida, March 2, 1999 and March 11, 1999.

New Mexico Division of Insurance, Testimony in support of Presbyterian Health Plan's acquisition of FHP of New Mexico, Inc., Santa Fe, New Mexico, October 23, 1997.

### **Testimony Provided to State Legislative Committee**

“The Mission Health System COPA,” testimony and presentation to the North Carolina House Select Committee on the Certificate Of Need Process and Related Hospital Issues, Fletcher, North Carolina, October 20, 2011.

### **Testimony Provided to Federal Agencies**

“Health Insurance Monopsony – Competitive Effects,” testimony and presentation to The Federal Trade Commission and The Department of Justice Antitrust Division, Hearings on Health Care and Competition Law and Policy, Washington, DC, April 25, 2003.

“Health Insurance Monopsony – Market Definition,” testimony and presentation to The Federal Trade Commission and The Department of Justice Antitrust Division, Hearings on Health Care and Competition Law and Policy, Washington, DC, April 24, 2003.

“Contracting Practices,” testimony and presentation to The Federal Trade Commission and The Department of Justice Antitrust Division, Hearings on Health Care and Competition Law and Policy, Washington, DC, March 27, 2003.

### **Certificate of Need Hearing Testimony**

Fact-finding hearing before Virginia State Department of Health on behalf of Brandermill Active Retirement Village, Inc. – Evaluation of the Virginia State Department of Health nursing home bed need methodology, October 9, 1986.

### **Conference Papers and Presentations**

“Economic Reasoning,” Commencement Address to the University of Maryland Economics Department Graduates, College Park, Maryland, May 23, 2014.

“Can Antitrust Keep Up with Health Care Restructuring?,” *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 4, 2013.

“ACOs and Other Collaborations,” Moderator, *American Health Lawyers Association and American Bar Association’s Antitrust in Healthcare Conference*, Washington, DC, May 4, 2012.

“Agreements Among Competitors to Share Revenues During a Labor Dispute under *California v. Safeway, Inc.*,” invited speech to the *Los Angeles County Bar Association*, Los Angeles, CA, February 9, 2012.

“*FTC v. Lundbeck* (Ovation): A Retrospective Merger Review,” invited speech to the *Antitrust Committee of the New York City Bar Association*, New York, NY, October 21, 2010.

“Unmasking the Wolf: The Universal Applicability of Antitrust Law and Economics?,” *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 11, 2009.

“Bundling: Does *PeaceHealth* Tie It All Together?,” Moderator, *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 3, 2008.

“When Does the Flow of Competitively Sensitive Information Create Antitrust Concerns?,” presentation to *American Health Lawyers Association’s Antitrust in Healthcare Conference*, Washington, DC, September 17, 2007.

“How Buying at Low Prices Can Violate the Antitrust Laws: Monopsony Lessons from Healthcare Antitrust Cases,” presentation to the *American Bar Association, Section of Antitrust Law Meetings*, Washington, DC, April 19, 2007.

“Health Care Quality and the Measurement of Market Power,” invited panelist at *Antitrust and Health Care: Assessing Issues in California and the United States*, a UC-Berkeley conference sponsored by the *Nicholas C. Petris Center on Health Care Markets and Consumer Welfare*, April 30 – May 1, 2004.

“Economics v. Daubert: Roundtable and Moot Hearing,” Moderator, *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 6, 2002.

“Leadership in Challenging Times,” Directors’ Roundtable speech and discussion with the Honorable Timothy Muris, Chairman of the Federal Trade Commission, Los Angeles, CA, April 18, 2002.

“Antitrust Issues Affecting Payors,” presentation and paper to conference on “Antitrust in Healthcare,” sponsored by the *ABA Section of Antitrust Law, the ABA Health Law Section, and the American Health Lawyers Association*, Washington, DC, May 17-18, 2001.

“Why Tobacco II: What Changes Do Plaintiffs Want in the Use of Financial Incentives in the Managed Care Industry?,” Moderator and panelist at *Marsh Health Spectrum Forum on Managed Care Organization Enterprise Risk*, New Orleans, LA, July 13, 2000.

“Use of Economists – Help or Hindrance?,” Workshop presentation at *American Health Lawyer’s Association Conference* on “Antitrust in the Healthcare Field,” Arlington, VA, February 17, 2000.

“Aetna’s Acquisition of Prudential Health Care,” presentation at *DC Bar Association Luncheon*, Washington, DC, December 14, 1999.

“Restructuring and Competition in the Health Insurance Industry,” presented at *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 10, 1999.

“Efficiencies Analysis in Hospital Mergers,” speech at the *ABA Conference on Antitrust Issues in Health Care*, sponsored by the *ABA Section of Antitrust Law and the Section of Health Law*, in New Orleans, LA, October 16, 1998.

“Restructuring and Competition in the Health Care Industry,” presented at *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 11, 1998.

“Overview of International Health Care Systems,” presentation to the *Eli Lilly and UCLA Anderson School of Business’ 1998 Global Health Care Conference* on “Managing Evolving Health Care,” Los Angeles, CA, June 26, 1998.

“Current Antitrust Issues for Health Plans,” presented to the *American Association of Health Plans’ 8th Annual Managed Care Law Conference*, San Diego, CA, April 27-29, 1997.

“Certificates of Public Advantage: The Example of a Great Falls Hospital Merger,” presented at *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 4, 1996.

“Hospital Mergers and State Action Immunity,” speech before the State Action/Noerr Doctrine Committee at the *American Bar Association meetings of the Section of Antitrust Law*, Washington, DC, March 27, 1996.

“The Economics of Vertical Mergers,” presented to *Preston, Gates & Ellis Conference* on “Antitrust: Does the Tiger Again Have Teeth?,” Seattle, WA, May 5, 1995.

“Analyzing Damages in a Health Care Antitrust Case,” presented at *American Bar Association Conference on Antitrust and Health Care*, co-sponsored by the Section of Antitrust Law and the American Bar Association Forum on Health Care, New Orleans, LA, October 7, 1994.

“Health Care Reforms Worldwide,” presented at *William M. Mercer International Conference*, New York, NY, September 29, 1994.

“Employer Mandates in Health Care Reform,” presented at *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 7, 1994.

“Health Care Reforms – Are They Answering the Right Questions?,” Speech to the Financial Times World Pharmaceuticals Conference, *Adapting a Global Industry to the New Health Care Environment*, London, U.K., March 23, 1994.

“Establishing the Relevant Market in Health Care Cases,” presented at the *National Health Lawyers Association meetings on Antitrust in the Health Care Field*, Washington, DC, February 18, 1994.

“Cost Crisis in Health Care: A Global Convergence Toward Market-Based Solutions,” sponsored by The Center for Strategic and International Studies. The results of NERA’s 16-volume study of health care reform in 12 industrialized countries were presented to Congressional staffs on September 15, 1993 in the Senate’s Hart Building, Washington, DC (with U. Hoffmeyer and R. Rapp).

“The Implications of Health Care Reform for Antitrust Litigation,” presented at *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 10, 1993.

“Health Care Funding: It’s Impact on the Balance of Supply, Demand and the Meeting of Needs,” presented at the *Annual Conference of the European Federation of Pharmaceutical Industries’ Associations*, Salzburg, Austria, May 25, 1993.

“Health Care Reform and the European Economic Community,” presentation to representatives of various Directorates General of the European Commission, including Mr. Fernand Saur, in charge of pharmaceutical policy for the EC, Brussels, Belgium, May 13, 1993.

“Financing Health Care, with Particular Reference to Medicines,” presentation of year long study to CEOs of 35 R&D based pharmaceutical companies, Washington, DC, April 1, 1993.

Discussant, “The Proposed Dutch Health Care System: Moving Away from Employer Based Health Insurance,” by Warren Greenberg, *American Economic Association Meetings*, Anaheim, CA, January 7, 1993.

“Effective Use of Economists in Health Care Litigation,” presented at the *National Health Lawyers Association meetings on Antitrust in the Health Care Field*, Washington, DC, January 29-31, 1992.

“Calculating Damages For Lost Earnings,” presented at *NERA Seminar on Calculating Economic Damages in Employment Cases*, Los Angeles, CA, March 26, 1991.

“Valuing Intangibles in Transfer Pricing Cases,” presented at *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 7, 1990.

“Estimating Patent Infringement Damages,” *NERA Seminar on New Developments in the Economics of Patent Infringement Litigation*, San Francisco, CA, and Los Angeles, CA, December 5 and 6, 1989.

“Competition and Cooperation in the Provision of Health Care,” presented at *NERA Seminar on Contracting in the NHS*, London, UK, September 11, 1989.

“A Comparison of the Cluster of Services Approach with the Product Line Approach in Analyzing Hospital Mergers and Acquisitions,” presented at *NERA Seminar on Antitrust and Trade Regulation*, Santa Fe, NM, July 1987 and *Young Partners Luncheon Series*, New York, NY, October 5, 1987.

“The Application of Franchising Concepts in the Health Care Industry,” workshop presented to the *Ninth Annual American Bar Association’s Forum Committee on Franchising*, San Antonio, TX, October 23-24, 1986.

“Misuse and Confiscation of Intellectual Property,” presented at a *NERA Seminar on Patents: The New Economics (Infringement, Misuse and Damages)*, New York, NY, April 17, 1986.

“Calculating Economic Damages in Wrongful Termination Cases,” presented at the *First Annual Employment Litigation Workshop*, sponsored by the *Employee Relations Law Journal*, Williamsburg, VA, September 18-20, 1985.

“An Economic Analysis of Certificate of Need Laws” (with David Kass), presented at the *American Economic Association Meetings*, San Francisco, CA, December 1983.

“Medical, Legal, and Economic Ramifications of Changes in the Health Care System,” panelist at the *American Enterprise Institute Conference* on “Restructuring the Health Care Financing System: Policies and Programs” Washington, DC, January 26-27, 1983.

“A Reexamination of Medical Society Control of Blue Shield Plans,” discussant of Arnould and Debrock paper at the *Eastern Economic Association Meetings*, Washington, DC, April 29, 1982.

“Public Policy Toward the Health Care Sector,” presented to the *Detroit Chapter of the National Association of Health Services Executives*, Pontiac, MI, June 15, 1982.

Reviewer of four papers on “Regulation – Can It Improve Incentives?,” at the *American Enterprise Institute Conference* on “Health Care – Professional Ethics, Government Regulation, or Markets?,” Washington, DC, September 25-26, 1980.

“A Model of the Primary Care Physician Firm,” presented at the *Eastern Economic Association Meetings*, Montreal, Canada, May 8-10, 1980.

Moderator, *Conference on Physician Manpower Issues – Health Economists’ Views* (Reinhardt, Sloan), Oakland University Health Education Program, Rochester, MI, October 16, 1979.

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